

# Promoting Permanency

## *Family Group Conferencing at the Manhattan Family Treatment Court*

Family drug treatment courts work with drug-addicted parents and guardians charged with abuse or neglect.<sup>1</sup> The goal of family drug courts is twofold: first, to find a permanent and safe home for the children as quickly as possible; second, to link the parent or guardian to drug treatment services, monitor compliance, and achieve long-term sobriety.

The cases are often complicated. Each situation is unique, and the ultimate outcome depends on a host of factors, among them the parent's progress in treatment, the parent's ability to provide for his or her family, interactions between the parent and child, and the availability of family members or friends to serve as supports for the parent or child.

One temptation in these cases is to view the family as the problem. After all, it was the family's dysfunction—in the form of a drug-abusing parent—that drew the attention of the child welfare agency in the first place. And the effects of parental drug abuse are often compounded by other family-related issues: poverty, lack of education, inadequate housing, and domestic violence.

Nonetheless, there has been a significant effort over the last 10 years—by both child welfare practitioners and lawmakers—to emphasize the positive role a family can play in resolving cases of neglect or abuse. Federal legislation now encourages child welfare agencies, when possible, to keep families together<sup>2</sup> and to keep children, if not with parents, in “kinship care.”<sup>3</sup> Most state welfare policies also give preference to relatives when placing a child with someone other than his or her parents.<sup>4</sup>

To facilitate this effort, social workers and child welfare agencies have begun experimenting with new ways of tapping into a family's strengths. One technique that has gained increasing currency over the last decade is family group conferencing, which brings family members together for facilitated discussion and allows them to play a role in developing possible solutions.

This article describes how the Manhattan Family Treatment Court has used family group conferencing to support the court's two primary goals: speedy permanency planning and parental sobriety. The Manhattan Family Treatment Court has found that family group conferences enhance permanency planning, help the court identify supports for ongoing sobriety in a parent's life, and, in addition, address the service needs of children, who, because of their parents' addiction, are at greater risk for abusing drugs in the future.



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*Continued on page 134*

*Continued from page 133*

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The article begins with an overview of family group conferencing, including a discussion of its origins, and then describes how family group conferences are conducted at the Manhattan Family Treatment Court. The next major sections review some key issues that the court has had to resolve to make family group conferencing an effective tool and examine results of the family group conferences. The final sections offer advice for other jurisdictions interested in family group conferencing and observations about the Manhattan court's experience.

## ORIGINS

Family group conferencing was developed in New Zealand in the 1980s as a response to youth crime and family dysfunction. In the case of youth crime, the family group conferences operate as a form of victim-offender mediation, in which an offender meets with the victim to discuss the offense. Family and supporters of both the offender and the victim attend and, guided by a facilitator, draw up a plan of action, which might include a letter of apology or direct compensation to the victim and community service. The model in the juvenile delinquency setting is designed to hold the offender accountable for his or her actions, and also to give the victim or victims a chance "to express the full impact of the crime upon their lives," according to a U.S. Department of Justice overview of the technique.<sup>5</sup>

New Zealanders also use family group conferences to deal with cases of child abuse. In the child welfare setting, the conferences bring together members of an extended family so they can work collectively to stop family violence and make decisions about the welfare of children. The technique is described as "strengths-based," because it tries to identify a family's strengths and harness those strengths for the benefit of the child. The family group conferences represented a marked shift in child welfare practice, which historically had focused more on a family's failings than on its strengths. The technique also takes some of the decision-making power away from the child welfare agency and gives it to the family. Family group conferences, according to a practitioner in the United Kingdom, "are predicated on the belief that, given the right information and resources, families will make better decisions for themselves than professionals. . . . The approach attempts to change the relationships between families and professionals, moving families from passive recipients of 'professional wisdom' to front-line decision makers for their children."<sup>6</sup> In 1989, New Zealand codified the use of family group conferencing into law. Now all juvenile delinquency cases and substantiated cases of child abuse are referred for a family group conference.

From New Zealand the technique traveled to Australia and then to other parts of the world, including the United States. Since the early 1990s, United States child welfare agencies have used family group conferences to prevent the removal of children from their homes, to facilitate family

reunification, and to identify other potential homes for children within the kinship circle. During a typical conference, child welfare professionals update the family on the status of the case; explain any bottom-line requirements that the agency, or the family court, may have regarding the case; and then give the family time by themselves to discuss the situation and develop a proposed solution. Solutions can, of course, take a wide variety of forms—perhaps placing the child temporarily (or permanently) with a caring relative or leaving the child in the home but with frequent monitoring by family members. If the solution satisfies the legal and safety concerns of the welfare agency and the court, it is typically adopted.

Family group conferencing appealed to child welfare experts in the United States for a number of reasons. Perhaps the most important was its focus on repairing families and reducing the placement of children in foster care—goals that reflected the latest thinking in the child welfare community. As in New Zealand, the approach is meant to emphasize a family's strengths, empower the family to solve its own problems, and reduce the adversarial dynamic between the family and the child welfare agency. Child welfare agencies found that plans developed during a family group conference often had a better chance of succeeding, in part because there was more family “buy-in” to the plan right from the start.<sup>7</sup> Family group conferences also offered child welfare agencies a new way to speed permanency planning, which was a key mandate of the Adoption and Safe Families Act (ASFA), passed by Congress in 1997.<sup>8</sup>

## THE MANHATTAN FAMILY TREATMENT COURT

Family group conferencing is a social work tool, one designed to help explore and heal family dysfunction. Therefore it may strike some as unusual that a court—which traditionally deals with black-and-white issues of law and procedure—would sponsor family group conferencing, a practice steeped not in law but in human emotion.

But for the Manhattan Family Treatment Court, family group conferencing is a natural extension of the court's basic mission: to protect children from neglect and expedite their placement into safe and permanent homes. The Manhattan Family Treatment Court was created in 1998 at the behest of New York State Chief Judge Judith S. Kaye, who was looking for a better way to handle the family court's growing caseload. Her specific concerns were the number of children in foster care and the lengthening of the average foster-care stay from 1.81 years in 1985 to 4.5 years by 1997.<sup>9</sup> These concerns were also reflected in ASFA's mandates, implemented in New York State in February 1999. The act, among other things, imposed tight limits on how long a child could remain in foster care.<sup>10</sup>

Because the crack epidemic was largely responsible for the foster-care crisis, the Manhattan Family Treatment Court was designed to work with drug-addicted parents. The court works much like a criminal drug court: it links parents or guardians (“respondents,” in the parlance of New York's family court) to drug treatment and then rigorously monitors compliance with court orders. The court requires parents to return to court frequently—as often as once a week at first—for drug testing and case management. The court also provides links to an extensive network of social services, including job training and housing.

The court accepts that relapse is often part of the recovery process. To teach participants that their actions have consequences, the court responds to relapses with graduated sanctions—for example, requiring a respondent to write an essay describing what he or she learned from the relapse or requiring extra court appearances and drug testing. The court also uses rewards—applause in the courtroom, less frequent court appearances—to encourage those who are doing well.

## GOALS OF CONFERENCING

While much of the court's work is focused on helping the parent achieve lasting sobriety, the court's primary goal is to establish a permanency plan for

the child. It was the pursuit of this paramount goal that led planners at the Manhattan Family Treatment Court to take a close look at family group conferencing. Court planners knew that family group conferencing was being used in other child welfare settings, and they hoped that the court, too, could use the technique to deal more effectively with the complex issues facing court participants and their families.

At the Manhattan Family Treatment Court, family group conferences serve a number of purposes, including:

***Educating family members.*** Family group conferences educate the entire family about the court process and the status of the respondent and his or her children. Families often find court procedures confusing. For example, many don't realize that respondents are at risk of losing their parental rights. "One of our first tasks in a conference is to educate everyone about the court process, our policies, and even to offer a basic primer about addiction, relapse, and recovery," says Lisa Horlick, supervisor of family group conferencing at the treatment court. Court staff have found that when families have the process explained to them, relatives are far more likely to offer a helping hand.

***Learning more about a family.*** Family group conferences give court staff more information about a family, which, in turn, helps the court and the child welfare agency develop a better permanency plan. "Sometimes it's really amazing what we find out in a family group conference," Horlick says. "You realize that there are people in the family who really want to help the respondent, people we might never have known about if we hadn't had the conference." Since confidentiality rules limit how much can be revealed outside a conference, Horlick asks participants, when appropriate, to sign release forms. The forms give Horlick permission to share relevant information with appropriate third parties. (See the later section "Challenges" for a discussion of confidentiality issues.)

***Identifying resources.*** Because the court's primary goal is to ensure that children are raised in safe and nurturing homes, staff work to identify the resources families need to function effectively over the long term. Thus, the court uses family group conferences to identify ways that the extended family can support a parent in recovery—by encouraging him or her to attend Twelve-Step meetings, for instance, or by offering regular babysitting or other tangible supports. "Drug treatment can be very overwhelming, and it's difficult for a mother or father to go through it alone. So if we can bring family in to offer support, to help plan, then the respondent may be better able to stay focused on her own recovery," Horlick explains. Family group conferences also highlight the needs of family members, so that court staff can make appropriate referrals for them as well.

***Breaking the cycle of addiction.*** The conferences address the needs of children, with a particular emphasis on preventing their future involvement with drugs. "We wanted to get parents to think about the extent to which substance abuse is intergenerational, and how parents can deliver anti-drug abuse messages starting at very young ages," says Raye Barbieri, former director of the Manhattan Family Treatment Court. "We also wanted to get the parents to know that getting their kid back was just the beginning. That's the message we're trying to get across."

#### PREPARING FOR A CONFERENCE

Case managers at the Manhattan Family Treatment Court encourage all their clients to participate in a family group conference, which is held in a conference room at the courthouse. Other court players—including the judge, staff from the Administration for Children's Services (New York City's child welfare agency), the child's law guardian, and the respondent's own attorney—may also urge respondents to participate.

If a respondent wants to learn more about family group conferences (about half of the court's clients ultimately choose to participate in the voluntary

process), they meet with Horlick, who explains the goals of the conferences and how they work. The decision whether to participate is itself empowering, Horlick observes. “We’re asking you, ‘Do you feel this is something you need? Look at the facts. Is this going to help your family?’ Sometimes parents aren’t ready to do a conference now, and we tell them, ‘You can wait.’ And that’s what some of them do. They wait until they have their act together more and then they ask for a conference.” Notes Judge Gloria Sosa-Lintner, who presides over the court, “You can’t force a family group conference on people. It’s really only helpful to those who are ready for it.”

Parents can elect to hold a family group conference at any time during their involvement with the court. Depending on its timing, a conference will focus on different issues. Early in the process it may focus on finding a safe temporary home for the child or on building familial support for a respondent in the first stages of recovery. Toward the end of the process a conference may deal with issues around family reunification or, if the respondent is not going to assume parenting responsibilities, with finding a permanent alternative for the child within the family.

The underlying issues giving rise to a family group conference are as varied as the clients themselves. Angie B., a 27-year-old mother of three, requested a family group conference because she wanted her mother and sister to know more about the challenges she faced during treatment. “My family didn’t understand what was going on,” Angie recalls. “They thought it should be done quick, and I should have my kids back in a week or two. They didn’t understand the system.” Liza Bowers, a lawyer who formerly represented children in Manhattan Family Treatment Court, recalls a case in which the children’s disagreements with their foster parent—their grandmother—were the focus of the conference. “The children were having trouble adjusting to the rules in the grandmother’s household and the fact that they couldn’t see their mother when they wanted to,” Bowers says.

When a parent chooses to proceed with a conference, Horlick asks for the names and phone num-

bers of the family members whom the respondent wants to invite. *Family* in this context is broadly defined. “Family is really anybody the respondent defines as family. Family can be a neighbor, a brother or sister, a partner. Anybody who’s going to be involved—or be an obstacle—in planning for the children,” Horlick explains. With the respondent’s permission, Horlick sometimes invites others to participate, including a court liaison from the Administration for Children’s Services who can answer specific questions about child welfare regulations and procedures.

Horlick has the respondent sign a release-of-information form, allowing her to contact family members and tell them about the respondent’s participation in family treatment court. Horlick then contacts the family members and tries to schedule a conference: “I try to schedule it as soon as possible, maybe within two weeks, because I feel that the longer it goes on, the less likely it is going to happen.” Fortunately, Horlick has found that most families agree to participate. “I’ve had only two different families where they said, ‘No way, I’m not coming in. I don’t care. I’ve tried to help her before, and she doesn’t deserve to have a child,’” Horlick says. “Fortunately, most families come in.”

#### NO PRESET SCRIPT

The conferences themselves have no preset script—but that does not mean they are free-for-alls.<sup>11</sup> Horlick, in consultation with the respondent, sets goals for each conference and then uses her authority as the facilitator to keep each conference on track. Typical goals might be to identify a relative who can take a child either temporarily or permanently; to encourage relatives or friends to provide respite care for the parent, perhaps by babysitting one night a week or taking the children for an occasional weekend; or to reduce family conflict, such as frequent arguments between a teenage daughter and her newly sober mother. The establishment of clear goals is critical to a conference’s success. “The model is task oriented,” Barbieri says. “It’s not therapy.”



Horlick spells out the goals of a conference at the outset, but she often has to use all her skills as a certified social worker to keep the group focused. Tempers sometimes flare and voices are sometimes raised. While Horlick does not immediately quash this kind of emotional venting, she tries to keep the outbursts to a minimum. She does this, in part, by reminding participants that only by discussing issues civilly will they be able to reach the best result for the respondent's children.

Horlick also gives participants a primer on the Manhattan Family Treatment Court. Her brief lecture could be called "Family Treatment Court 101," since she tries to give an overview of the entire treatment court process from admission to final permanency plan. She talks about the importance of judicial monitoring and regular drug testing. She explains that the court has divided the process into three phases and that a respondent must achieve a period of sobriety before progressing from one phase to the next. And she talks about the process of recovery from addiction, including the fact that episodes of relapse, for most people, are common. For many family members, this is their first chance to learn about the court—and about the ins and outs of substance abuse treatment.

Horlick then updates the family about the respondent's case, focusing particularly on the current status of the respondent's children and the progress, if any, that's been made toward a permanency plan. "I had one family recently that hadn't realized that the termination process had already started. Fortunately, someone in the family volunteered to take custody. Had we not encouraged them to come in, the kids probably would have been moved to a preadoptive home," Horlick says.

If a representative from the Administration for Children's Services attends, she helps the family understand its options. She might, for instance, explain the difference between custody and adoption. Or she might explain what criteria a family member needs to meet to be approved as a temporary guardian. "We had a situation involving a mother with two kids where one family member wanted to

take the boy and another family member would take the girl," Horlick says. "But the representative from the Administration for Children's Services said, 'There's no way we'd approve splitting those kids; they've always been together, and we're not splitting them up.' So then the conference was about how they could work as a family to keep the kids together."

Annette Riley-Richmond, an Administration for Children's Services liaison, has attended several family group conferences. She says that having the respondent and extended family members in one room allows her to make sure everyone has the same information. "Everyone is getting the same message," Riley-Richmond says. "There are always two or three sides to a story, and when you put people together in a room, the story will start out a little crooked, but as time goes on it straightens out. By the end, everyone is clear what their role is, and they know what's at stake."

#### ELICITING CONVERSATION

Once Horlick has presented the family with the facts of the case, she opens the floor for discussion. Some participants aren't sure what to say at first, while others are eager to talk. "Sometimes I have to elicit the conversation," Horlick says, "but most of the time the family is really ready to go, especially the respondent. The respondents... usually have specific things they want to say."

Horlick sometimes encourages participants to look at patterns of addiction within the family. Occasionally, she creates a "genogram"—a family tree that highlights the familial history of substance abuse. "Genograms help the family understand that the addiction didn't just start with the respondent," explains Dalma Riquelme, project director of the clinic at the Manhattan Family Treatment Court. "A genogram helps identify substance abuse going back generations, so that family members get a better understanding of why the respondent has an addiction. That's been very eye-opening for some families." Genograms also graphically demonstrate to families that the next generation—the respondent's children—is at risk of inheriting the addictive

behavior. Horlick often uses the genogram to launch a discussion about ways family members can help the respondent's children avoid drugs and stay out of trouble.

Most conferences last about 90 minutes. Outcomes vary widely. For Horlick, the best outcome involves some form of action plan—basically a “to do” list for conference participants. The action plan helps crystallize what was discussed during the conference, offering participants a tangible guide for action. For example, an action plan might spell out the details of a babysitting arrangement between a relative and a respondent. Or it might detail a respondent's job-search strategy. And it often includes tasks for Horlick and other “official” participants; for instance, Horlick might refer the family to a community-based organization for ongoing family therapy, while the representative from the child welfare agency might conduct a background check on a relative who is willing to take custody of the children.

Sometimes a conference produces a written agreement. A formal agreement is particularly helpful for families who are facing the prospect of reunion but are worried about future conflict. Conflict, of course, can arise for any number of reasons. Children may resent the long absence of their parent and act out or may want to test the limits of their parent's renewed commitment to the family. Children who previously knew their parent as a person who never set limits might also find it difficult to live with a parent who is suddenly setting curfews, regulating what they watch on television, and assigning chores. A written agreement can help ease tensions by spelling out expectations and rules of conduct. “A household contract really helps with teenage kids,” Horlick says. “They're not used to having a parent around and don't want to be told how to behave. So we help the family work out a set of rules, like chores or curfews—things like ‘I promise to be home by 10 every night.’”

At the end of the conference, Horlick asks participants if they found the session helpful and if they want to meet again. Some families feel that one ses-

sion is enough, but others ask to meet again and again. Horlick has met up to five times with a single family, and she encourages families to continue the conversation on their own. She also makes referrals to family therapy when appropriate. “I give everyone in the room my card with my number. They always have access to me. And I remind them that this is always something they can do without me, that they don't need me in order to sit as a family and have a conversation. That's an important outcome. If they can now start a family conversation on their own, that's better for everyone down the line.”

#### “WE THOUGHT SHE WAS DOING GREAT”

Each family member brings into a family group conference his or her own knowledge, needs, perceptions, questions, judgments, and resentments. This makes each conference unique—and often extremely complex.

At a family group conference in March 2002, family members gathered to discuss the future of a 10-year-old boy and his 12-year-old sister who were currently in nonkinship foster care.<sup>12</sup> The question for the conference was what was going to happen to the children.

As the conference progressed, it was clear there was no simple answer. The youngsters' mother had been in the treatment court about 14 months but had made no meaningful progress toward recovery. The court was moving toward terminating her parental rights, but family members wanted the court to give the respondent another chance. At the same time, the family members were trying to figure out whether any of them was willing to take custody of the children or adopt them.

A number of factors complicated the discussion. For one thing, the respondent herself did not attend because she couldn't leave her residential treatment program—although the conference was conducted with her consent. This meant that her wishes had to be communicated secondhand. “She told me she knows now she wants her kids back,” explained the respondent's great-aunt.

The first task for Horlick and Riley-Richmond, the liaison from the child welfare agency, was to explain the status of the case. While the family was hopeful that the respondent was finally making progress in recovery, Horlick explained that it might already be too late. "The [child welfare] agency is working under legally mandated deadlines, which means the court will soon start the termination process," Horlick said.

At first, the family members talked around this reality. "We're hoping she'll get her life back and get her kids back," a cousin said. Horlick and Riley-Richmond repeated again and again that the prospect of the children's return to their mother was dim. For family members, this news was not only sad, but it didn't reflect their own personal experiences with the respondent. Said the cousin: "We always thought she was doing great because we never saw her high." The respondent, in fact, had given them the impression that everything was going well. "We had no idea it had come to this," remarked the cousin, who added that she would be willing to take permanent custody of the children if the respondent were ultimately to fail.

Horlick then guided the conversation with questions: How would everyone feel if the respondent were to fail again in treatment? Did the cousin have a large enough home to raise the two children? Was the cousin prepared to tell the respondent that she was on the brink of permanently losing custody of her children?

At the end of the conference, it was agreed that the Administration for Children's Services would investigate the cousin and her husband for their suitability as long-term or permanent caretakers of the children. In the meantime, the family would discuss with the respondent the possibility that she would lose her parental rights and that her cousin might become the children's permanent guardian. The family members said they wanted to have at least one more conference and hoped the respondent would attend. One of the relatives seemed to sum up the family's sentiments when she said, "I just hope that

however the situation turns out, these kids stay with family."

When it was over, Horlick was pleased. She noted that the conference produced at least two meaningful outcomes: first, the family now had a clearer understanding of the court process and the very real possibility that the respondent could lose her parental rights; and, second, the family offered to help find a home for the children within the family.

### ADAPTING THE MODEL

From the beginning of the conferencing program, one of the main issues for staff was how to adapt family group conferencing to conform to the needs and limits imposed by the treatment court setting.

A number of factors played a role in the design of the conferences. One important factor was the presence of the court just outside the conference room door. While participation is technically voluntary, the court setting is inherently coercive. Respondents are free to decline the offer of a family group conference, and yet there is often unavoidable pressure to participate. Although she never orders a respondent to participate in a family group conference, Judge Gloria Sosa-Lintner sometimes puts a "heavy suggestion" to participate on the record. "If the clinical staff thinks it may be helpful, I'll say, 'You should at least try it,'" says Sosa-Lintner.

No doubt the judge's encouragement sways some clients. In this sense, the decision to participate is not always purely voluntary—that is, some clients may be participating not out of a self-motivated desire to help themselves, but in an effort to please the judge. Because the meetings are confidential, however, participants are reminded that the judge never finds out what transpires during the session (unless participants give their explicit written consent; see the later section "Challenges" for more on this issue). Horlick also emphasizes to each family that even though the conferences are taking place in a courthouse, they are intended to be neutral. "I express to them that even though we're in the courthouse, this is a different



type of meeting. It's not driven by the judge, it's driven by the respondent who requested it."

#### ROLE OF THE FACILITATOR

The role of the facilitator is probably one of the key distinguishing features of the Manhattan Family Treatment Court's approach to family group conferencing. In other settings, the leader or facilitator of a family group conference usually lets the family steer the session. In fact, facilitators sometimes leave the room to allow the family to develop a plan of action.

In the Manhattan Family Treatment Court, however, the facilitator is more directive. The facilitator, for instance, never leaves the conference. And she frequently reminds the family to stay focused on the topic at hand. Horlick said she does this for a number of reasons: first, she wants to make sure the session is as productive as possible; second, because the family doesn't have the final say over the outcome of the session—only the court has authority to finalize a permanency plan—the facilitator needs to play an active role, if only to guide participants to a plan that fits within the court's legal guidelines. "Because these clients are already under the court's jurisdiction, it's not so flexible," Horlick says. "The family can't simply say, 'This is what we're going to do,' and I wouldn't want to give a family the impression that they can decide to do whatever they want."

Dalma Riquelme, the project director of the clinic at the Manhattan Family Treatment Court, feels that a strong facilitator and the oversight of the court are important for obtaining a meaningful outcome. "By holding the family group conference ourselves, we're assured that all the important issues—particularly affecting permanency—are discussed. If it takes place off-site and without a facilitator from the court, so many other things come into play that you're not guaranteed that the end result will be permanency," Riquelme says.

#### CHALLENGES

As the Manhattan Family Treatment Court has gained more experience with family group conferences,

Horlick and the rest of the team have grappled with a number of interesting questions:

#### **Should children attend conferences? If so, what role should they play, and what limits, if any, should be placed on the conversation?**

With regard to children, the policy of the treatment court clinic is flexible. Of course, the presence of a child can be inhibiting. And yet the clinic has also found that a child's attendance can be invaluable, benefiting the child and the entire family. The facilitator needs to iron out the goals of the meeting with the respondent before determining the appropriateness of a child's attendance. If a parent wants to help her family understand her addiction and plans to discuss her problems in graphic detail, then "there's really no point in the child's being there," Horlick says. But if the parent wants to help her child better understand why he's in foster care, then the family group conference can provide an excellent opportunity to do so.

"A lot of times, the mother or father might say, 'I want my children to be here so they have an understanding of why they're not with me,'" Horlick says. It's crucial, of course, that the discussion be conducted in terms the child can understand. For instance, rather than tell a 5-year-old that her mother is in drug treatment, a parent might say, "Mommy's in school to learn how to be a better mommy." Horlick tries to help the respondents and other family members use age-appropriate language, but she also believes children need to be told as much as their age will allow. "You'd be surprised how much these kids already know. And, at some point, the families need to give these kids some education about drugs. Tiptoeing around the issue isn't a good idea, especially when the kids are older, around 10 and up."

Both children who are named in the court petition and those who are not can benefit from a family group conference. The so-called nonsubject children frequently have questions and concerns that need to be addressed, and a family group conference is an excellent way to engage these youngsters in dialogue.

**What if family members want to hold a family group conference, but the respondent is against the idea or simply unable to attend because he or she is in jail or a residential treatment facility?**

Although it may seem strange to hold a family group conference without the respondent, court staff have done so on a number of occasions. Sometimes court staff have no choice, as when a respondent has disappeared but a deadline regarding permanency is approaching. In such a case, staff will try to bring family members together to see if the child or children can be placed within the family. Staff have also held family group conferences without the parent at the parent's request. "The mother may be in residential treatment, but her kids are in foster care with their grandmother and they're not getting along. So mom decides that the only way she can stay in treatment is if she knows that her family's needs have been addressed. In that case, she might ask us to hold a family group conference without her," Horlick explains. The court's philosophy is that a family group conference can be helpful with or without the respondent. "Even if it's only to give the family information about the case, we think a family group conference is worthwhile," says Horlick.

**Do confidentiality rules place limits on the discussion or prevent the facilitator from being as candid as possible?**

Obviously, there is no legal problem if a client signs a release-of-information form allowing the facilitator to disclose any and all details of the case during the family group conference. Concern arises only when a client has not signed a release. If a client has disappeared but the family requests a group conference, the facilitator is obliged to follow all confidentiality rules and limit disclosures to only what is legally permissible.

This, of course, poses a significant obstacle when the facilitator is trying to educate family members about the treatment court process. The facilitator must use only general statements about the court and how it works, explaining, for example, that the court process is divided into three phases or that

the court uses frequent urine tests to monitor sobriety. Horlick explains: "I had a family who said, 'I don't understand why she's not getting her kids back.' And I had to explain to them what our policy is regarding urine screens. I didn't say, 'Your daughter has tested positive every day this month,' but I say, 'Look, this is how it works. She gets screened twice a week, and you get to spend more time with your child the longer you're sober.' So they could conclude that if the mother is getting only one hour of supervised visits at the agency, she's got very little clean time, which was a surprise to them. That's not what the daughter had been telling them." While the facilitator can't reveal what phase the respondent is in or the results of the most recent urine test, she can still discuss the status of the children and the steps that need to be taken to develop a permanency plan.

But even when a client has signed a release-of-information form, Horlick is not always comfortable discussing the details of a case. Although legally able to disclose a client's status, Horlick tries to limit the information she shares when the client is unable to attend the conference. Rather, she encourages family members to ask the parent themselves the next time they see him or her. She takes a similar approach when the client is at the conference—encouraging the client to answer the family's questions about his or her progress in treatment.

**Do confidentiality rules prevent a facilitator from discussing outside the family group conference what occurred or was discussed in the meeting?**

The short answer to this question is yes. At the end of every conference, however, the facilitator at the Manhattan Family Treatment Court asks participants to sign a consent form, allowing her to reveal to the court and appropriate case managers that the family group conference occurred and to offer a brief summary of what transpired. The form allows participants to be as specific as they want. For instance, if a relative is interested in caring for a child, he or she can request on the consent form that the facilitator inform the child welfare agency, which, in turn, will initiate an investigation into the relative's suitability

as a foster parent. Through the use of the consent form, the facilitator is able to ensure that knowledge gained about the family during the group conference is effectively applied toward achieving the court's two main goals: permanency planning and parental sobriety.

**If a family member is part of the problem (for example, a relative is using drugs), what role, if any, can he or she play in a family group conference?**

It may seem counterintuitive to invite an active drug user to a family group conference, but staff at the Manhattan Family Treatment Court do allow it. Because one of the purposes of the family group conference is to anticipate and deal with problems that might arise down the road, it can only help to deal openly and squarely with problematic family members. Further, the family group conference can provide an opportunity to identify needs of family members—like drug treatment—and make appropriate referrals.

## MEASURING RESULTS

From February 2000 to February 2002, court staff have held 138 family group conferences involving 82 different families. How effective were these family group conferences? Because each conference is different—bringing together a unique constellation of family members, problems, and resources—it is impossible to quantify the results. And yet the court reports that, at least anecdotally, its experience with family group conferencing has been positive.

The court has found that family group conferencing has a number of clear advantages. For example, family group conferencing, as the court applies it, is highly flexible. It can help families who are moving toward reunification, and it can help those who are moving in the other direction—toward permanently placing children with family members or freeing them for adoption. It can be used with or without the participation of the respondent. It can also be used at any time during the treatment court process.

Jay Maller, a member of the assigned-counsel panel who represents parents in Manhattan Family Treatment Court, says a family group conference can be “extremely important.” A family group conference can help a parent “build a foundation” of support. “I think it’s similar to telling a parent, ‘Look at your vocational needs, look at your housing needs.’ A family group conference is saying that to safeguard sobriety, you also need to restore family relationships.”

## POSITIVE FEEDBACK

Court staff have not formally surveyed participants for their reactions to family group conferences, but anecdotally the results are promising. Participants interviewed for this article spoke highly of their experience, as did attorneys representing both adults and children.

Angie B., for example, was in constant conflict with her mother and sister before they participated in a family group conference. “They kept asking me why things weren’t moving faster, and I was hurt by their questions. I would get frustrated and curse at them, and they couldn’t talk to me. I really felt abandoned,” Angie says. The conference was “very intensive . . . everybody was crying,” she explains; in the end, it “was like a door opening.” At the conclusion of the conference, her mother agreed to babysit the children when they returned to Angie’s home, and her sister agreed to offer support if Angie ever felt the urge to use drugs. “Now they come to court with me every time, and we’re getting along much better,” Angie says.

Liza Bowers, a former law guardian in Manhattan who is now project director of the family treatment court in Queens, New York, finds family group conferences “very helpful. I think it’s a very important tool, especially in family court, because the bottom line is that no matter what we do in the brief time their case is open, the family members are always connected to each other, and they need to figure out a way to work together.”

Brad Martin, an attorney who represents children, says the family group conference offers a unique opportunity for his clients to have a direct

say in what happens to them. “To the extent that a family group conference involves children in decision making, then it’s a good thing and a benefit to them,” Martin remarks. Andrew Baer, an attorney for parents, says he thinks family group conferences are a good idea, and he actively urges some clients to participate. “Theory and practice have shown that when people go through drug treatment and alcohol rehabilitation programs, support networks are very, very important,” Baer says.

### KEY QUESTIONS

The treatment court hopes eventually to answer some key questions about the efficacy of family group conferencing. Among the questions researchers may eventually explore: Do family group conferences increase the likelihood that a child will remain within the family—that is, either be returned to a parent or placed in kinship foster care? What types of family issues can family group conferencing address most effectively? Do family group conferences spark long-term changes in family dynamics, or do the benefits fade soon after the conferences? Because the goals of family group conferencing are to create stronger supports for a parent’s recovery and to address the needs of children, researchers might also explore the following: Do family group conferences have an impact on a parent’s long-term sobriety? Do family group conferences play a role in improving long-term outcomes for the respondent’s children, specifically by lowering rates of drug abuse?

Based on their anecdotal experience, staff at the Manhattan Family Treatment Court strongly believe that family group conferences are “certainly something worth trying,” says Raye Barbieri, who introduced family group conferencing to the Manhattan Family Treatment Court when she served as the court’s director. Again and again, staff at the court have seen family group conferences produce tangible results: a permanency plan, a resolution of family conflict, hope for a parent’s ongoing sobriety. “It’s a way to help respondents rebuild relationships and negotiate their lives,” remarks Judge Sosa-Lintner.

“So many of our parents have burnt their bridges, and they need all the help they can get.”

Sosa-Lintner emphasizes, however, that whether or not a respondent participates in a family group conference does not affect how she handles a case: “It’s an additional service that’s not going to make or break a case.”

And yet a respondent’s participation in a family group conference is often interpreted as a sign of the parent’s interest in getting his or her life in order. “It leaves a positive impression when a parent is willing to do a family group conference,” explains Riley-Richmond, the court liaison from the Administration for Children’s Services. “It makes me feel that they’re trying harder to reunify their family. Any help they can get is beneficial to the case.”

### ISSUES TO CONSIDER

A family treatment court interested in using conferencing as a tool for permanency planning or supporting a respondent’s recovery has a number of issues to consider. Those issues can be broken down as follows:

#### *Who*

Because the family group conference is built around the needs of the respondent and his or her children, the respondent should help identify the participants. When the respondent is absent, however, the treatment court clinic’s staff and the court liaison from the child welfare agency will have to identify those in the life of the child who may be able to offer support. It may also be useful to consult with the respondent’s children—that is, if they are old enough to meaningfully contribute—about possible participants. Court staff will also have to decide whether to broaden the list of participants to include lawyers, caseworkers, or other professionals. The Manhattan Family Treatment Court avoids inviting child protective workers into the conferences, largely because of confidentiality concerns. They also do not invite lawyers to the sessions because their presence tends to inhibit free-flowing discussion. Ideally, the conference will include key people in the respondent’s

life, including family and friends, who can serve as supports. The conference can also include people who may pose potential obstacles to reunification.

Another important “who” to determine is the conference facilitator. Ideally, the facilitator should have experience working with families and addressing the often-complicated mental and emotional issues that inevitably arise. “A trained facilitator helps move a very task-oriented session along given the limited time,” Barbieri explains.

### *What*

A family group conference needs a clear focus. Before the conference begins, court staff should know what topics will be covered; otherwise, the conference risks turning into a free-for-all. The following questions may help the family group conferencing facilitator create an agenda for the conference: What is the status of the case? What does the family know about the case? What are the impediments to creating a permanency plan? What special needs of the respondent, child, or family members have yet to be addressed? The answers to these questions can help the facilitator map out a productive conference agenda.

### *When*

The ideal time to hold a family group conference varies from case to case. The best strategy is probably to introduce the respondent to the idea of a family group conference early in the court process, and then periodically remind him or her that the tool is available. Family group conferences seem to be most helpful at critical points in the treatment process. Such critical points include the following:

- after 90 days of sobriety, when a respondent is mentally and physically able to at least start thinking about long-term plans
- prior to a permanency hearing where decisions are being made about a child’s long-term placement
- prior to reunification, when stress on the respondent is high and numerous interpersonal issues usually need to be ironed out
- prior to graduation, when clients are often at greater risk of relapse

### *Where*

The more neutral the location the better. If possible, avoid holding a conference at the child protective agency. Location, however, is not as important as the atmosphere in the session. The key is to make clear to all participants that the process is voluntary and that the conference offers a safe place for participants to talk openly and honestly about their concerns.

### *How*

Family group conferences can be labor-intensive. Staff must set up a meeting with a large group of people, must explain the process beforehand to all the participants, must make sure the consent form has been signed, and must guide the family through the conference itself and also provide follow-up. It is recommended that a jurisdiction start slowly and experiment with a limited number of families. That way, staff can refine and adapt the process to make it as productive and as little taxing as possible on everyone involved. Some jurisdictions have also held focus groups for members of different cultural and ethnic groups to ensure that the family group conferences are carried out in a way that is “culturally relevant” to participants.<sup>13</sup> During the conferences themselves, the best facilitators strike a balance between spontaneity and structure—that is, they give participants the freedom to generate ideas and identify family strengths while also ensuring that the conversation stays focused on the topic at hand.

It is important that the process of planning a conferencing program be inclusive. A facilitator should invite all parties involved in child welfare cases to participate in the planning process. In California’s Stanislaus County, for example, child welfare planners invited “clerical staff, line workers, managers, and the [agency] director” to participate in creating a protocol for administering “family decision meetings” countywide.<sup>14</sup>



## CONCLUSION

Drug courts have found a number of techniques that help participants achieve lasting sobriety—such as regular court appearances, frequent urine tests, and a system of graduated sanctions and rewards—but they are always seeking new ways to improve outcomes. It was precisely such a search for better outcomes that led the Manhattan Family Treatment Court to experiment with family group conferencing.

Staff at the Manhattan Family Treatment Court believe family group conferencing can help the court achieve its two most important goals: speedy permanency planning and parental sobriety. The court has found that family group conferences can help achieve a number of other goals as well—for example, informing families about how the court operates and the status of the respondent's children; ironing out conflicts between respondents, their children, and other family members; and educating families about addiction, substance abuse prevention, and ways to halt the familial cycle of addiction.

For other family drug treatment courts grappling with the complex issues that their clients face, the Manhattan Family Treatment Court's experience with family group conferencing offers several lessons. One is, of course, that family group conferences can be successfully adapted to the setting of a family drug court. While other courts may have to customize the model to suit their individual needs, the Manhattan Family Treatment Court's experience can offer courts a solid foundation for getting started.

But whether or not other family drug courts choose to hold family group conferences, there is a broader lesson in the Manhattan experience: that family drug courts don't have to invent new techniques from scratch. Just as they have borrowed approaches from criminal drug courts, family drug courts can also borrow tools, like family group conferencing, from child welfare practitioners and other service providers. While it may seem unusual for a court to get directly involved in nurturing family relationships, the Manhattan Family Treatment Court believes that such work can make a positive

difference. In essence, the Manhattan court has shown that a drug court can do more than encourage a client's progress in recovery. It can also play an active role in helping clients set the stage for a return to the real world, which means preparing them to get a job, to find a home and—if they're sober, willing, and able—to assume the challenging responsibilities of parenthood.

## NOTES

1. There are 86 family drug courts currently operating in the United States and 69 more in planning stages. *See* Office of Just. Programs Drug Ct. Clearinghouse & Technical Assistance Project, Summary of Drug Court Activity by State and County: Juvenile and Family Drug Courts 35 (Sept. 15, 2003), <http://www.american.edu/justice/publications/juvfamchart.pdf>.

2. *See* Adoption and Safe Families Act of 1997 (ASFA), Pub. L. No. 105-89, 111 Stat. 2115 (1997). Section 101(a) of the act amended section 471(a)(15) of the Social Security Act, 42 U.S.C. § 671(a)(15), to require that "reasonable efforts shall be made to preserve and reunify families . . . (i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and (ii) to make it possible for a child to safely return to the child's home . . ."

3. *See* Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996). Section 505(3) of the act amended section 471(a) of the Social Security Act, 42 U.S.C. § 671(a), to provide "that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards."

4. *See* CHILDREN'S BUREAU, U.S. DEP'T OF HEALTH & HUMAN SERVS., REPORT TO THE CONGRESS ON KINSHIP FOSTER CARE vi (June 2000), <http://aspe.hhs.gov/hsp/kinr2c00/>.

5. MARK S. UMBREIT, UNIV. OF MINN., FAMILY GROUP CONFERENCING: IMPLICATIONS FOR CRIME VICTIMS (U.S. Dep't of Just. 2000), [http://www.ojp.usdoj.gov/ovc/publications/infores/restorative\\_justice/restorative\\_justice\\_ascii\\_pdf/ncj176347.pdf](http://www.ojp.usdoj.gov/ovc/publications/infores/restorative_justice/restorative_justice_ascii_pdf/ncj176347.pdf).

6. PAUL NIXON, *Building Community Through Family Group Conferences: Some Implications for Policy and Practice*, in 1999 FAMILY GROUP DECISION MAKING NATIONAL ROUNDTABLE CONFERENCE: SUMMARY OF PROCEEDINGS (Am. Humane Ass'n 2002).

7. Leslie E. Wilmot, manager of the National Center on Family Group Decision Making at the American Humane Association, writes: "When families develop the case plan, they are more likely to agree with recommended treatment services and implement the plan to the best of their ability." See Leslie E. Wilmot, *It's Not Too Late: The Use of Family Group Decision Making Processes to Achieve Family Reunification*, 16 PROTECTING CHILD. 34 (Winter 2000).

8. See Adoption and Safe Families Act (ASFA), Pub. L. No. 105-89, 111 Stat. 2115 (1997) (codified at scattered sections of 42 U.S.C. (2000)).

9. For background on the Manhattan Family Treatment Court, see Robert Victor Wolf, *Fixing Families: The Story of the Manhattan Family Treatment Court*, 2 J. CENTER FOR FAM. CHILD. & CTS. 5 (2000).

10. For instance, the act requires child welfare agencies in a large number of cases to file a petition to terminate parental rights if a child has been in foster care for 15 of the last 22 months.

11. Family group conferences tend to be loosely structured. Other, similar techniques follow a tightly scripted agenda. In Oregon, for instance, child welfare agencies use "family unity meetings," which, according to the National Institute of Justice, "follow a prescribed agenda[,] moving from an introduction of all the people present in relation to the child, to a statement of purpose, a statement of concerns (family and agency), family strengths assessment, an enumeration of options, the development of a written list of formal and informal family supports, and concludes with a decision and a time line for implementation." See KERRY MURPHY HEALEY, NAT'L INST. JUST., POLICIES, PRACTICES, AND STATUTES RELATING TO CHILD ABUSE AND NEGLECT (U.S. Dep't of Just., Oct. 1997), <http://www.ojp.usdoj.gov/nij/childabuse/bg3j.html>.

12. The author attended the conference with the family's consent under the condition that their names would not be revealed.

13. See Cheryl Waites et al., *Family Group Conferencing: Building Partnerships With African American, Latino/Hispanos, and American Indian Families and Communities*, in 1999 FAMILY GROUP DECISION MAKING NATIONAL

ROUNDTABLE CONFERENCE: SUMMARY OF PROCEEDINGS NOTES (Am. Humane Ass'n 2002).

14. TERI KOOK ET AL., BEYOND THE RHETORIC: TRANSFORMING AGENCY PRACTICE THROUGH FAMILY DECISION MEETINGS (Am. Humane Ass'n 2002). For more ideas on how to conduct a family group conference, see FAMILY GROUP CONFERENCES: PERSPECTIVES ON POLICY AND PRACTICE (J. Hudson et al. eds., Willow Tree Press 1996); Susan L. Brooks, *Therapeutic Jurisprudence and Preventive Law in Child Welfare Proceedings: A Family Systems Approach*, 5 PSYCHOL. PUB. POL'Y & L. 951 (Dec. 1999); Jennifer Michelle Cunha, *Family Group Conferences: Healing the Wounds of Juvenile Property Crime in New Zealand and the United States*, 13 EMORY INT'L L. REV. 283 (1999); Jolene M. Lowry, *Family Group Conferences as a Form of Court-Approved Alternative Dispute Resolution in Child Abuse and Neglect Cases*, 31 U. MICH. J.L. REFORM 57 (1997); Lisa Merkel-Holguin, *Putting Families Back Into the Child Protection Partnership: Family Group Decision Making*, 12 PROTECTING CHILD. 4 (Fall 1996); Joan Pennell, *Mainstreaming Family Group Conferencing*, in BUILDING STRONG PARTNERSHIPS FOR RESTORATIVE PRACTICES 72 (Ted Wachtel ed., Real Justice 1999); Mark Umbreit & S. Stacey, *Family Group Conferencing Comes to the U.S.: A Comparison With Victim-Offender Mediation*, 47 JUV. & FAM. CT. J. 29 (Spring 1996); Am. Humane Ass'n, *Family Group Decision Making: A Promising New Approach for Child Welfare*, CHILD PROTECTION LEADER, *passim* (July 1996); Gale Burford et al., Manual for Coordinators and Communities: The Organization and Practice of Family Group Decision Making, (Memorial U. Nfld. Sch. Soc. Work, rev. Feb. 2001), available at <http://social.chass.ncsu.edu/jpennell/fgdm/manual/index.htm>; various publications of the National Center on Family Group Decision Making, at <http://www.ahafgdm.org>.

